

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

LION GATE GAS SERVICES, INC.,  
*Plaintiff*

V.

ATAIN SPECIALTY INSURANCE  
COMPANY,  
*Defendant*

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Civil Action No. 3:19-cv-00159

**NOTICE OF REMOVAL**

TO THE HONORABLE COURT:

COMES NOW Atain Specialty Insurance Company, and files its Notice of Removal and would respectfully show unto the Court as follows:

**PROCEDURAL HISTORY**

1. Plaintiff filed suit in Cause No. 2018DCV4138, in the 210<sup>th</sup> Judicial District Court of El Paso County, Texas on or around November 2, 2018; however, Plaintiff never served Defendant and the court dismissed the case on or around March 6, 2019 following Plaintiff's failure to appear. Defendant was thereafter served on May 14, 2019, with Plaintiff's Petition and Atain filed a timely answer on June 7, 2019.

2. Defendant has filed this Notice of Removal within the time period required by 28 U.S.C. § 1446(b).

**NATURE OF THE SUIT**

3. Plaintiff alleges that its building sustained damages as a result of hail that occurred in El Paso County, Texas, on or about November 4, 2016.

4. At the time of the subject incident according to Plaintiff's Original Petition, Plaintiff's building is/was located at 1130 Joe Battle, El Paso, Texas 79936.

5. Defendant Atain is an insurance company incorporated under the laws of the State of Michigan and whose principal office is in the State of Michigan.

**BASIS FOR REMOVAL**

6. Removal is proper because there is complete diversity of citizenship between Plaintiff and Defendant. Plaintiff is a Texas Corporation located and doing business in Texas. Defendant Atain is an insurance company incorporated under the laws of the State of Michigan and whose principal office is in the State of Michigan.

7. The amount in controversy exceeds \$75,000.00, exclusive of interests, costs, and attorneys' fees.

**VENUE AND JURISDICTION**

8. Venue for this removal is proper in this district under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

9. This Court has jurisdiction of this action by virtue of the provisions of 28 U.S.C. § 1332 in that this is a case of diversity of citizenship between the parties with the amount in controversy exceeding \$75,000.00, exclusive of interest and costs.

**DEFENDANT'S NOTICE OF REMOVAL  
IS PROCEDURALLY CORRECT**

10. Atain has attached to this notice all process, pleadings and orders filed in the state court action as required by 28 U.S.C. §1446(a). (See Exhibit A, Index of Matters Being Filed.)

**JURY DEMAND**

11. Defendant made a demand for a jury trial in State District Court and tendered the jury fee.

**NOTICE TO STATE COURT**

12. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the State Court in which this action is pending.

Respectfully submitted,

**CASTAGNA SCOTT LLP**  
1120 S. Capital of Texas Highway  
Bldg. 2, Suite 270  
Austin, Texas 78746  
512/329-3290  
888/255-0132 (Facsimile)

By: /s/ Celeste Kronenberger  
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**ATTORNEYS FOR DEFENDANT  
ATAIN SPECIALTY INSURANCE  
COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing and has been sent via facsimile to the following:

**VIA FACSIMILE: 915/613.4284**

Omar Maynez  
MAYNEZ LAW  
1812 Hunter Drive  
El Paso, Texas 79915-1522

in accordance with the Federal Rules of Civil Procedure, on this 12<sup>th</sup> day of June, 2019.

/s/ Celeste Kronenberger  
Celeste P. Kronenberger